

CHAPTER VI

REVENUE RECEIPTS

6.1 Trend of Revenue Receipts

6.1.1 The tax and non-tax revenue raised by the state government, state's share of divisible Union taxes and grants-in-aid from Government of India during the year 2002-03 along with the corresponding figures for the preceding four years are given below:

Table-6.1

(Rupees in crore)

| | | 1998-99 | 1999-2000 | 2000-01 | 2001-02 | 2002-03** |
|------------|---|--------------------|--------------------|-------------------|--------------------|---------------------|
| I | Revenue raised by the State Government | | | | | |
| (a) | Tax Revenue | 46.76 | 49.07 | 65.39 | 80.39 | 105.96 |
| (b) | Non-Tax Revenue* | 1020.92 (42.92) | 1042.75 (64.78) | 289.02 (65.63) | 1128.20 (71.12) | 1315.84 (143.36) |
| | Total | 1067.67 | 1091.82 | 354.41 | 1208.59 | 1421.80 |
| II | Receipts from the Government of India | | | | | |
| (a) | State's share of divisible Union taxes | 92.21 | 99.54 | 72.20 | 84.83 | 76.77 |
| (b) | Grants-in-aid | 280.78 | 320.47 | 435.99 | 513.75 | 581.95 |
| | Total | 372.99 | 420.01 | 508.19 | 598.58 | 658.72 |
| III | Total receipts of the State (I+II) | 1440.66 | 1511.83 | 862.60 | 1807.17 | 2080.52 |
| IV | Percentage of I to III | 74 | 72 | 41 | 67 | 68 |

* Figures in brackets indicate net receipts after deducting, Rs 978.00 crore, Rs 977.96 crore, Rs.223.39 crore, Rs.1057.09 crore and Rs.1172.48 crore on account of expenditure towards State Lotteries during 1998-99, 1999-2000, 2000-01, 2001-02 and 2002-03 respectively.

** For details, please see 'Statement No. 10-Detailed Accounts of Revenue by Minor Heads' in the Finance Accounts of the Government of Sikkim.

Tax revenue raised by the State

6.1.2 Receipts from tax revenue constituted 7.45 per cent of the total revenue raised by the state during 2002-03. An analysis of the tax revenue for the year 2002-03 and the preceding four years is given below

Table- 6.2

(Rupees in crore)

| Sl. No. | Tax Revenue | 1998-99 | 1999-2000 | 2000-01 | 2001-02 | 2002-03 | Increase (+)/ Decrease (-) (in 2002-03 over 2001-02) | Percentage of variation |
|---------|--|--------------|--------------|--------------|--------------|---------------|---|-------------------------------|
| 1 | Sales Tax | 13.06 | 13.64 | 24.50 | 34.97 | 41.42 | 6.45 | 18.45 |
| 2 | Taxes on Income other than Corporation Taxes | 18.32 | 17.84 | 19.29 | 22.03 | 32.67 | 10.64 | 48.33 |
| 3 | State Excise | 11.86 | 13.39 | 17.61 | 17.59 | 22.45 | 4.86 | 27.62 |
| 4 | Taxes on vehicles | 1.51 | 1.69 | 1.54 | 1.97 | 2.35 | 0.38 | 19.33 |
| 5 | Stamps & Registration Fees | 0.51 | 0.62 | 0.50 | 1.30 | 3.45 | 2.15 | 165.81 |
| 6 | Land Revenue | 0.12 | 0.54 | 0.22 | 0.51 | 0.40 | -0.12 | -22.53 |
| 7 | Other Taxes and Duties on Commodities and Services | 1.37 | 1.35 | 1.73 | 2.02 | 3.22 | 1.20 | 59.49 |
| | Total | 46.76 | 49.07 | 65.39 | 80.39 | 105.96 | 25.58 | |

The increase in state excise revenue was due to upward revision of excise duty and better management of revenue collection. The increase of taxes on vehicles was due to increase in the number of vehicles in the state.

The reasons for variation in respect of the remaining heads of revenue have not been received (September 2003).

Non-tax revenue raised by the state

6.1.3 Lotteries, road transport service, power, forest, interest, police and plantations were the principal sources of non-tax revenue of the state. Receipts from non-tax revenue during the year 2002-03 constituted 92.55 per cent of the revenue raised by the state. An analysis of non-tax revenue under the principal heads for the years 1998-99 to 2002-03 is given below

Table-6.3

(Rupees in crore)

| Sl. No | Non-Tax Revenue | 1998-99 | 1999-2000 | 2000-01 | 2001-02 | 2002-03 | Increase (+) Decrease (-) in 2002-2003 with reference to 2001-2002 | Percentage of variation |
|--------|-------------------------------|--------------|--------------|--------------|--------------|---------------|--|-------------------------------|
| 1 | Road Transport | 7.49 | 11.89 | 11.90 | 15.56 | 17.26 | 1.70 | 10.94 |
| 2 | Power | 6.44 | 8.33 | 10.04 | 11.84 | 12.97 | 1.12 | 9.46 |
| 3 | Forestry and Wild Life | 1.60 | 4.90 | 6.39 | 6.65 | 7.15 | 0.50 | 7.58 |
| 4 | Interest Receipts | 0.26 | 0.51 | 4.48 | 6.02 | 7.17 | 1.15 | 19.08 |
| 5 | Plantations | 2.22 | 2.35 | 2.39 | 2.01 | 1.78 | (-) 0.24 | (-) 11.71 |
| 6 | Dividends and Profits | 1.23 | 0.72 | 0.01 | 0.01 | 1.76 | 1.75 | 16496.23 |
| 7 | Police | 3.45 | 2.84 | 5.84 | 3.86 | 1.40 | (-)2.46 | (-)63.67 |
| 8 | Public Works | 0.51 | 0.45 | 1.25 | 0.99 | 2.41 | 1.43 | 144.58 |
| 9 | Tourism | 0.39 | 0.40 | 0.39 | 0.67 | 0.54 | (-)0.13 | (-)19.57 |
| 10 | Crop Husbandry | 0.21 | 0.20 | 0.47 | 0.43 | 0.50 | 0.07 | 16.68 |
| 11 | Stationery and Printing | 0.95 | 0.96 | 0.86 | 0.98 | 1.12 | 0.13 | 13.57 |
| 12 | Village & Small Industries | 0.50 | 0.49 | 0.66 | 0.64 | 0.63 | - | (-)0.77 |
| 13 | Animal Husbandry | 0.14 | 0.16 | 0.16 | 0.24 | 0.24 | 0.01 | 4.34 |
| 14 | Industries | 0.11 | - | - | 0.01 | 0.01 | - | 12.20 |
| 15 | Medical and Public Health | 0.42 | 0.14 | 0.37 | 0.35 | 0.36 | 0.01 | 3.50 |
| 16 | State Lotteries* | 15.03 | 27.90 | 17.21 | 17.31 | 84.24 | 66.93 | 386.66 |
| 17 | Others | 1.97 | 2.54 | 3.21 | 3.55 | 3.82 | 0.27 | 7.54 |
| | Total | 42.92 | 64.78 | 65.63 | 71.12 | 143.36 | 72.24 | 101.59 |

*Excludes Rs 978.00 crore, Rs 977.96 crore, Rs.223.39 crore ,Rs.1057.09 crore and Rs.1172.48 crore on account of expenditure towards State Lotteries during 1998-99, 1999-2000, 2000-01, 2001-02 and 2002-03 respectively which has been taken in the Finance Accounts for the purpose of calculating the non-tax revenue during the respective years.

The increase of revenue under state lottery was mainly due to introduction of on-line lotteries during the year. Similarly, the increase under dividends and profits was due to dividend received from public undertakings, under road transport was due to expansion of department's activities towards goods traffic and the increase under interest receipts was due to more investment of cash balances. The decrease

under tourism was due to receipt of lease rent of Hotel Norkhill for the year 2002-03 in the subsequent financial year 2003-04.

The reasons for variation in respect of the remaining heads of revenue have not been received (September 2003).

6.2 Variation between the budget estimates and actuals

6.2.1 In respect of the following principal heads of revenue, the variation between budget estimates and actual receipts for the year 2002-03 was more than 10 per cent.

Table-6.4

(Rupees in crore)

| Sl. No. | Head of Revenue | Budget estimates | Actuals | Variation Increase(+) / Decrease(-) | Percentage |
|---------------------------|---|------------------|---------|-------------------------------------|------------|
| A. Tax Revenue | | | | | |
| 1 | Land Revenue | 0.23 | 0.40 | 0.17 | 77.11 |
| 2 | Taxes on income other than corporation tax | 26.00 | 32.68 | 6.68 | 25.68 |
| 3 | Stamp & registration fees | 0.61 | 3.45 | 2.84 | 465.56 |
| 4 | Sales Tax | 21.50 | 41.42 | 19.92 | 92.65 |
| 5 | Taxes on vehicles | 1.38 | 2.35 | 0.97 | 70.08 |
| 6 | Other Taxes & Duties on commodities and services. | 3.95 | 3.22 | (-) 0.73 | (-) 18.50 |
| B. Non-Tax Revenue | | | | | |
| 7 | Public Works | 1.71 | 2.41 | 0.70 | 41.00 |
| 8 | Medical and Public Health | 0.40 | 0.36 | (-) 0.04 | (-) 10.63 |
| 9 | Information and Publicity | 0.06 | 0.19 | 0.13 | 198.31 |
| 10 | Labours and Employment | 0.04 | 0.05 | 0.01 | 13.00 |
| 11 | Crop Husbandry | 0.22 | 0.50 | 0.28 | 127.95 |
| 12 | Animal Husbandry | 0.30 | 0.25 | (-) 0.05 | (-) 18.20 |
| 13 | Forestry and Wild Life | 4.20 | 7.20 | 3.00 | 71.36 |
| 14 | Food Storage and Warehousing | 0.05 | 0.13 | 0.08 | 154.20 |
| 15 | Other Rural Development Programme | 0.04 | 0.08 | 0.04 | 106.00 |
| 16 | Police | 7.43 | 1.40 | (-) 6.03 | (-) 81.14 |
| 17 | Water Supply and Sanitation | 0.45 | 0.73 | 0.28 | 61.84 |
| 18 | Social Security and Welfare | 0.37 | 0.43 | 0.06 | 17.25 |
| 19 | Plantations | 2.76 | 1.78 | (-) 0.98 | (-) 35.62 |
| 20 | Power | 20.00 | 12.97 | (-) 7.03 | (-) 35.17 |

The increase under sales tax was due to more realisation under State Sales Tax Act, i.e. Rs.6.68 crore, and under taxes on income other than corporation tax it was due to more realisation of income tax levied under state law. The increase under forestry and wildlife was due to strict implementation of forest acts and rules.

The reasons for variation in respect of the remaining heads of revenue have not been received (September 2003).

6.3 Cost of collection

6.3.1 Expenditure incurred on collection of revenue under the principal heads during the years 2000-01 to 2002-03 is given below:

Table-6.5

(Rupees in crore)

| Sl. No. | Head of Revenue | Year | Gross collection | Expenditure on gross collection | Percentage of expenditure to gross collection | All India average percentage for the year 2001-2002 |
|---------|-------------------|---------|------------------|---------------------------------|---|---|
| 1 | State Excise | 2000-01 | 17.61 | 1.07 | 6.07 | 3.21 |
| | | 2001-02 | 17.59 | 1.13 | 6.42 | |
| | | 2002-03 | 22.45 | 1.09 | 4.85 | |
| 2 | Sales Tax | 2000-01 | 24.50 | 0.65 | 2.65 | 1.26 |
| | | 2001-02 | 34.97 | 0.72 | 2.06 | |
| | | 2002-03 | 41.42 | 0.97 | 2.34 | |
| 3 | Taxes on vehicles | 2000-01 | 1.54 | 0.24 | 15.58 | 2.99 |
| | | 2001-02 | 1.97 | 0.37 | 18.78 | |
| | | 2002-03 | 2.35 | 0.37 | 15.74 | |

It would be seen from the table that the percentage of expenditure to gross collection during 2002-03 as compared to the corresponding all India average percentage for 2001-02 was very high.

6.4 Outstanding Inspection Reports

6.4.1 Audit observations on irregularities and defects in assessment, demand and collection of state receipts, noticed during local audit, are intimated through Inspection Reports (IRs) to departmental officers, heads of departments and also to the Government where necessary. The points mentioned in the IRs are to be settled as expeditiously as possible and first replies should be sent within four weeks from the date of receipt of the IRs by the Departments.

The position of IRs in respect of revenue receipts issued to the end of December 2002 but remaining outstanding as at the end of June 2003 was as under:

Table-6.6

(Rupees in crore)

| Sl. No. | | At the end of | | | | |
|---------|--|---------------|-----------|-----------|-----------|-----------|
| | | June 1999 | June 2000 | June 2001 | June 2002 | June 2003 |
| 1 | Number of outstanding IRs. | 154 | 161 | 110 | 134 | 123 |
| 2 | Number of outstanding Audit objections | 381 | 377 | 281 | 296 | 268 |
| 3 | Money value of the objections | 27.35 | 32.51 | 49.20 | 28.84 | 77.47 |

Receipt-wise break-up of the IRs and objections (with money value) are given below:

Table-6.7

(Rupees in crore)

| Sl. No. | Head of Receipts | No. of Inspection Reports | No. of Audit Objection | Amount |
|---------|--|---------------------------|------------------------|--------------|
| 1 | Sales Tax | 08 | 25 | 10.26 |
| 2 | Income Tax | 08 | 34 | 20.51 |
| 3 | Forests | 43 | 93 | 0.40 |
| 4 | Land Revenue | 29 | 45 | 0.70 |
| 5 | Motor Vehicle | 08 | 20 | 1.91 |
| 6 | State Excise | 03 | 09 | 4.46 |
| 7 | Urban Development & Housing Department | 10 | 17 | 1.78 |
| 8 | Power | 06 | 15 | 16.40 |
| 9 | Lotteries | 03 | 04 | 8.56 |
| 10 | Mines & Geology | 05 | 06 | 12.49 |
| | Total | 123 | 268 | 77.47 |

Out of 123 IRs pending settlement, even first replies had not been received (June 2003) in respect of 98 reports containing 208 audit objections.

The position of outstanding paras and objections has been brought to the notice of the Chief Secretary to the state government (June 2003)

6.5 Results of Audit

6.5.1 Test check of the records of Forest, Power, State Excise, Motor Vehicle, Income Tax, Urban Development and Housing, Tourism and State Lotteries Departments conducted during the year 2002-03 revealed under-assessment/short levy/loss of revenue amounting to Rs.10.33 crore in 8 cases. A few illustrative cases involving Rs.9.06 crore highlighting important audit observation are mentioned in the following paragraphs.

EXCISE DEPARTMENT

6.6 Short levy of excise duty of Rs.2.95 lakh

Incorrect levy of excise duty rates resulted in revenue loss of Rs.2.95 lakh

As per Industries Department's notification of 3 October 2000 read with its letter dated 4 October 2000 to Excise Department, M/s. Sikkim Distilleries Ltd. (SDL) was required to pay excise duty (ED) @ 100 per cent of the applicable rate of ED on liquor products with effect from 4 October 2000.

Scrutiny of records revealed that Excise Department levied and collected ED from SDL on liquor products @ 65 per cent of the applicable rate of ED instead of @ 100 per cent from 4 October 2000 to 11 October 2000. During this period SDL produced 2510 cases of liquor products and paid Rs.5.48 lakh as ED against Rs.8.43 lakh actually due, resulting in short realization of ED to the tune of Rs.2.95 lakh.

In reply, the Department stated in June and November 2003 that the Industries Departments notification of 3 October 2000 was received on 10 October 2000 and the same was communicated to the unit immediately. The Department further added that accountability for the delayed enforcement of the notification, therefore should lie with Industries Department and not the Excise Department. The reply is not tenable as lack of proper coordination between Industries and Excise departments resulted in loss of government revenue

**FINANCE DEPARTMENT
(DIRECTORATE OF LOTTERIES)**

6.7 Short realisation of state's share of assured revenue of Rs.7.04 crore

Failure of the Directorate to ensure that the marketing agent submitted bank guarantees in accordance with the agreement resulted not only in short realisation of assured revenue by Rs.7.04 crore and loss of interest amounting to Rs.10.08 lakh, but rendered eventual recovery of the first amount doubtful.

The Government of Sikkim (GOS) entered into an agreement in August 2001 with a marketing agent (MA) for a period of seven years for operation, maintenance and marketing of the state's on-line lottery. The agreement, *inter alia*, stipulated that the MA was:

- liable to pay to the GOS 20 per cent of the gross revenues earned through sale of tickets every year for seven years. This was however, not to be less than the minimum assured revenue (MAR) of Rs.35 crore in the first year, Rs.45 crore in the second and up to Rs. 220 crore in the seventh year.
- required to execute a bank guarantee (BG) for every quarter of the year by the 10th of the first month of the quarter for an amount proportionate for the quarterly period in relation to the MAR for the year. The BG would be invoked by the GOS in event of the failure of the MA to pay the MAR.

The first draw of the Sikkim on-line lottery styled 'Sikkim Super Lotto' was held on 29 March 2002. Thereafter, the MA in June 2002 moved the Government for approval to launch one more on-line lottery styled 'Sikkim Thunder Ball' (later renamed 'Sikkim Super Ball'). The cabinet on 14 July 2002 approved the same on

the understanding that the MA would adhere to the MAR to the GOS as committed. At the behest of the MA, the GOS in November 2002 approved the increase in the jackpot prize of the 'Sikkim Thunder Ball' from Rs.50 lakh to Rs.75 lakh.

During test check of records of Thunder Ball Scheme, it was observed that since its introduction, gross revenue of Rs.108.47 crore was collected by MA through sale of tickets in 36 draws. Of which, the MA remitted Rs.14.65 crore as government share against the due amount of Rs.21.69 crore. This resulted in shortcharging of Rs.7.04 crore by GOS. This amount could not be made good from the MA despite GOS reference to MA to pay differential. It further entailed loss of interest of Rs.10.08 lakh.

Further, the MA against the required BG to be furnished, furnished BG for Rs.9 crore for the first quarter on 2 March 2002 which expired on 31 March 2003 and did not furnish BG for the remaining quarters of the first year in respect of on line lotteries. Directorate also did not take cognizance of this breach of agreement by MA. Thus due to non obtaining BG from MA, the recovery of government dues of Rs.7.04 crore short charged and interest of Rs.10.08 lakh appear doubtful.

The Directorate stated in April 2003 that since the prize pool of the Thunder Ball scheme was enhanced from 45 to 50 *per cent*, the MA was insisting on reduction of the state's share of gross revenues from ticket sells from 20 to 15 *per cent*. It further stated that supplementary agreement in respect of the Thunder Ball lottery was under process of finalisation. The reply was inconsistent with the Directorate's earlier action of asking the MA to remit the Government's 20 *per cent* share of gross revenues.

Further, the Directorate clarified in July & November 2003 that state's share had not been reduced to 15 *per cent* and stated that it was insisting upon to remit the differential amount at the earliest.

The MA while disputing the payment of 20 *per cent* share on Thunder Ball scheme, invoked the arbitration clause to resolve the issue. However, the issue was neither resolved through arbitration nor had the differential amount been remitted by the MA.(November 2003)

FOREST DEPARTMENT

6.8 Loss of revenue on account of short realisation of royalty of Rs.4.51 lakh

Failure to levy royalty at appropriate rate resulted in short realisation of Rs.4.51 lakh in 172 cases.

In terms of Rule 7 of the Sikkim Transit of Timber and other Forest Produce Rules, 1999 applicable from August 1999, transit permits shall be issued after levying a fee which shall be equal to the commercial rate of royalty for the timber

or forest produce as notified in the Schedule of rates currently in force. Rule 11 however, provides for concessional fee to be levied when the (i) origin of timber is private land holding, (ii) timber is sought to be transported within three months of the day on which it was last transported within a distance of 25 kms. and (iii) when the timber was purchased from the Forest Department in an auction.

Scrutiny of records in the offices of the Principal Chief Conservator of Forest and four* District Forest Officers (DFOs) for the period August 1999 to April 2000 revealed that the Department failed to levy and collect normal rate of transit fee in 51 cases resulting in short realisation of Rs.2.32 lakh.

Further, records of the offices of four DFOs for the period April 2001 to March 2002 relating to the issue of permits for transit of timber from private landholdings showed that these offices failed to levy and collect transit fee at the concessional rate of 50 *per cent* of the normal rate in 82 cases resulting in short realisation of Rs.1.42 lakh.

In reply, the Department stated in August 2003 that in some cases approval of the Government for relaxation of Transit Permit fee were obtained. However, it could not substantiate the same with supporting documents.

In terms of Rule 2(b) and (c) of the Sikkim Private and Other Non-forest Lands Tree Felling Rules, 2001, 'bustiwala rate' means the concessional rate of royalty leviable on villagers and 'commercial rate' means the rate for sale to any individual, association, group, business establishment, hostel or agency of Government or otherwise.

Scrutiny of records of the offices of four DFOs for the period November 2001 to October 2002 revealed that in 39 cases while marking order of trees was issued in the name of villagers liable for levy and collection of royalty at bastiwala rate, transit permits were found issued in the name of some other persons against whom royalty was levied and collected at bastiwala rate. The holders of the transit permits not being the original tree holders were liable to be charged commercial rate of royalty. Thus, incorrect levy of royalty at bastiwala rate instead of commercial rate resulted in short levy of royalty of Rs.0.77 lakh.

The Department stated in August 2003 that the above timbers had originated from private holdings of villagers and were used by them for their bonafide purposes and were not sold. The contention of the Department is not tenable in view of the fact that the transit permit holders were not the original tree holders and thus were liable to levy as commercial rate of royalty.

* DFO(T) East, Gangtok, DFO(T) West, Gyalsing, DFO(T) North, Mangan, DFO(T) South, Namchi

6.9 Short realisation of licence fees from quarries worth Rs.2.68 lakh

Leasing out of quarries for part of the year on piecemeal basis for extraction of forest produce during peak season resulted in undue benefit to quarry licence holders and consequent short realisation of licence fees of Rs.2.68 lakh.

As per Office Order No. 992/FTC dated 22 March 1999 of the Principal Chief Conservator of Forest-cum-Secretary, the rate of licence fee for allotment of quarries for extraction of forest produce like loose stone, sand and stone chips was revised to Rs.15 per 100 square feet of lease area per annum with effect from 1 April 1999.

Scrutiny of records of the office of the District Forest Officer (DFO), South for the period April 1999 to December 2002 revealed that 10 quarries in area ranging from 4,500 to 4,73,000 square feet were leased out for part of the year on piecemeal basis for extraction of forest produce during peak season instead of leasing out for one full year. Hence, licence fees were accordingly realised from quarry licence holders on prorata basis excluding the lean period of 151 months. This practice, thus, not only violated the spirit of the Office Order of the Forest Department to lease out the quarries for the year as a whole, but also resulted in non-collection of licence fee to the tune of Rs.2.68 lakh.

In reply the Department stated in June 2003 that the system of piece meal leasing has not violated the above order as the quarry operators were allowed to operate only for the period of lease. They further added that realisation of licence fee for full year would not be justified as the license was issued for only limited period of three/ six months. The reply is not tenable as the rates specified in the order were to be levied for whole year irrespective of the period of the year for which quarries were actually leased out.

INCOME & SALES TAX DEPARTMENT

6.10 Loss of revenue

Wrong interpretation and application of slab rates of taxation resulted in underassessment of income tax and consequent loss of revenue of Rs.27.85 lakh.

The Sikkim Income Tax Manual, 1948 provides the framework for levying and collecting income tax in Sikkim. After the merger of the State with India in 1975, the State Income Tax Manual obtained the force of law, which could be amended or repealed by a competent legislature only.

Mention was made in para 6.14 of the Audit Report of 2000-01 that notwithstanding the above, the Finance Minister (FM) of Sikkim in May 1998 approved a slab rate of taxation for petroleum dealers which was an executive decision and apart from causing revenue loss, it was also without jurisdiction and legally untenable. Against the statutory rate of 3 *per cent* per annum leviable on the gross sale proceeds beyond Rs.10 lakh (Rs.23,230 on sale proceeds up to Rs.10 lakh) of the previous year, the slab approved prescribed the rate of tax as 3 *per cent* for gross turnover of up to Rs.30 lakh, 2 *per cent* for gross turnover between Rs.30 lakh and Rs.1 crore and 1 *per cent* for gross turnover above Rs.1 crore.

Test check of records revealed that eight petroleum dealers for the accounting years 1998-99 and 1999-2000, one dealer for the years 1998-99 to 2000-01 and two dealers for the years 1998-99 to 2001-02 were assessed in 2001-02. While making assessment, the department charged income tax at a flat rate on the gross turnover of the dealers instead of charging at the slab rates. This resulted in underassessment of income tax amounting to Rs.27.85 lakh.

In reply, the Department stated in August 2003 that petroleum dealers of Sikkim were representing for enhancement of tax rebate from 90 to 97 *per cent*, which was turned down by the Finance Secretary and instead it was decided to levy tax on the slab rate of 1, 2 and 3 *per cent* depending on the volume of turnover. They further sought to justify the rate of 3 *per cent* as equivalent to Indian Income Tax Act leviable in neighbouring state.

The reply side steps the audit contention that slab rates should have been applied progressively on increasing turnover and not at a flat rate on total turnover.

6.11 Non-realisation of sales tax of Rs.19 lakh

Inaction by the Department resulted in non-realisation of Rs.6.19 lakh as sales tax.

Rule 12 of the Sikkim Sales Tax Rules prescribes that every registered dealer shall furnish returns in form III for each quarter in respect of his business to the assessing authority.

Scrutiny of records of the Additional Commissioner, Sales Tax Department revealed that M/S Scenic Sikkim Co. (P) Ltd, a registered dealer despite issue of reminders to him neither filed sales tax returns nor produced books of accounts since 1 April 1999. It was noticed that a sales tax clearance certificate was issued to the firm in April 2000 after realisation of advance tax of Rs.2 lakh and on the condition that it would submit all relevant books of accounts by 15 May 2000 for assessment. However, the firm failed to submit books of accounts and the Department thereupon seized all available documents of the firm in July 2000 and assessed the dealer in February 2001 and levied sales tax amounting to Rs.7.35 lakh and a penalty of Rs.1.84 lakh on a total turnover of Rs.49 lakh.

In response, the firm deposited Rs.1.00 lakh in March 2001 and requested the Department to allow payment of balance sales tax in four instalments after exempting payment of penalty. However, neither the firm, paid the remaining amount of assessed tax, nor did the Department initiate any effective steps to realise the remaining sales tax amounting to Rs.6.19 lakh. Further, assessment of tax for the period subsequent to July 2000 was also not done by the Department.

Department stated in November 2003 that the case had been referred to the Government Advocate in December 2002 for initiating process of recovery through a court of law. However, no recovery was effected till date.(November 2003.).

ROADS & BRIDGES DEPARTMENT AND INCOME & SALES TAX DEPARTMENT

6.12 Non realisation of sales tax of Rs.46.49 lakh from contractors

Owing to short recovery of sales tax of Rs.9.46 lakh at source and non-deduction of 2 per cent sales tax at source from contractors amounting to Rs.37.03 lakh, government revenue of Rs.46.49 lakh remained unrealised due to non-assessment of the contractors' income.

Sales Tax Department of the Government of Sikkim specified between June 1996 and May 2001 the rate of sales tax payable by a contractor involved in the execution of a works contract at four paise in a rupee and the rate of deduction of sales tax at source from bills of works contractors at two paise in a rupee. It was also clarified by the Department that balance 2 per cent sales tax was to be adjusted at the time of final assessment against the contractor's final liability to pay 4 per cent sales tax.

Cross check of 167 works payment vouchers and sales tax deduction records for the period July 2000 to August 2002 of the Roads & Bridges (R&B) Department with Sales Tax Department revealed that none of the contractors from whom 2 per cent sales tax was deducted at source were ever assessed by the Sales Tax Department subsequently. This resulted in retention of sales tax to the tune of Rs.37.03 lakh by contractors. Moreover, since none of the contractors had been assessed to sales tax in the state so far, permanent loss of revenue to the extent of 2 per cent short deduction of sales tax is not ruled out.

Further, in 119 out of the above 167 cases, there were short recoveries by the R&B Department of even 2 per cent sales tax at source, amounting to Rs.9.46 lakh.

While no reply was received from R&B Department regarding short recovery against 2 *per cent* sales tax at source, Sales Tax Department informed in November 2003 that assessment of contractors could not be done inspite of their concerted efforts as the required documents such as certificate of deduction of tax at source, copies of contracts, etc. necessary for assessment were not furnished by the contractors. The reply of the Sales Tax Department is not tenable as it was competent to assess the contractors on best judgement basis.

**TRANSPORT DEPARTMENT
(MOTOR VEHICLE DIVISION)**

6.13 Non-realisation of late fee of Rs.1.23 lakh

Despite clear orders to collect late fee on delayed payment of token tax, Department failed to collect it resulting in loss of revenue of Rs.1.23 lakh.

Under the Sikkim Motor Vehicle Taxation Act, 1982, token tax shall be imposed and levied on all motor vehicles used or kept for use in Sikkim, which shall be payable for the year in advance. Further, it was decided by the Department in May 1987 to realise a late fee at the prescribed rate for all types of vehicles for delayed deposit of tax

Scrutiny of registration records of 2383 vehicles out of 5670 vehicles registered with the Department revealed that in 144 cases late fee aggregating to Rs.1.23 lakh in respect of delayed payment of token tax was not realised by the Department for the period from January 1999 to July 2002.

In reply, the Department stated in January 2003 that list of defaulters had been published in a local daily for clearance of dues within stipulated time, failing which registration of the vehicles would be cancelled. However, no intimation was sent by the Department so far regarding either collection of arrears or cancellation of registrations.

The Department further stated in November 2003 that arrears would be realised during the time of subsequent renewal.

6.14 Loss of Rs.10.98 lakh due to non-levy of additional fee

Despite clear codal provisions, the Department failed to levy additional fee on delayed renewal of permits resulting in a revenue loss of Rs.10.98 lakh.

Rule 93(5) of the Sikkim Motor Vehicles Rules, 1991 read with Section 81(3) of the Motor Vehicle Act, 1988 stipulates that the State Motor Vehicle Department may renew a permit on an application made less than 15 days before the date of its expiry only on payment of an additional fee of fifty *per cent* of the fee prescribed for renewal of permit.

A test check of records of the Motor Vehicle Division revealed that in 1122 cases of route permits, which were submitted for renewal less than 15 days before the date of their expiry, the Division failed to levy the additional fee of fifty *per cent* resulting in a revenue loss of Rs.10.98 lakh for the period April 1995 to March 2003.

On this being pointed out by Audit, the Division intimated in January 2003 that it had issued a notice in August 2002 to the vehicle owners to pay additional fee wherever the application for renewal of permit was submitted less than 15 days before its expiry. In a further reply in November 2003, the Department stated that the arrears of additional fee would be realised during the subsequent renewal of taxes.

URBAN DEVELOPMENT & HOUSING DEPARTMENT

6.15 Non realisation of entertainment tax and penalty

The executive decision to levy slab rates of tax was legally not tenable and led to loss of government revenue. Non levy of penalty, and granting of permission to restart operations on part payment of outstanding dues was an undue favour extended to a cable operator resulting in a loss of Rs.89.41 lakh.

The Sikkim Entertainment Tax (Amendment) Act, 1998 read with sub-rules (4) and (5) of Rule 8 of the Sikkim Entertainment Tax (Amendment) Rules, 1998 required cable operators in the state to pay entertainment tax @ 25 *per cent* of the total payment received by way of subscription, contribution, installation and connection charges excluding the cost of cable wires on monthly basis, failing which a penalty of Rs.1 per connection per day was to be imposed.

In January 1999, the Sikkim Cable TV Operators Association appealed to the Government not to impose entertainment tax on the grounds that it was higher and beyond their capacity to pay. The Department with the approval of the Minister in May 1999 decided to levy tax at flat rates on the operators ranging between Rs.250 to Rs.10,000 per month depending on the category of bazaars/towns where the cable service was provided. The executive decision to levy tax at flat rates which was inconsistent with the provisions of the Sikkim Entertainment Tax (Amendment) Act, 1998 not only caused loss to Government revenues but was without jurisdiction and was legally untenable.

Reversing its earlier decision, the Department subsequently sent notices in March 2001 to the operators to pay entertainment tax at 25 *per cent* with effect from April 2000.

Test check of records revealed that a cable T.V. operator 'X' having largest customer base in the state continued to operate his business without payment of entertainment tax of Rs.41.88 lakh due from him from April 2001 to December 2001. The department suspended his licence only in December 2001. However in March 2003, the operator paid Rs.10.47 lakh out of the amounts due and was allowed to run his business without payment of balance amount of Rs.31.41 lakh due from him. Thus inaction on the part of the Department resulted in non-realisation of Rs.31.41 lakh. Besides, the operator was liable to pay penalty of Rs.58 lakh for non payment of tax for the period during which the default continued.

Thus, the laxity of the Department in vigorously enforcing the statute and its injudicious decision to allow 'X' to restart operations without realising the balance tax and penalty was an undue benefit extended to the operator which resulted in a loss of Rs.89.41 lakh (Rs.31.41+58 lakh) to the state.

The Department replied in November 2003 that the operation of 'X' had been suspended w.e.f October 2003 and action was initiated to cancel his licence. Further, it was also contemplating a suit against 'X' to recover the outstanding amount.